

### **REMARKS/ARGUMENTS**

In response to the Office Action mailed November 14, 2008, Applicant amends his application and requests reconsideration in view of the amendments and the following remarks. In this amendment, claim 1 is amended, no claims have been added, no claims have been cancelled without prejudice and claims 5, 6, 10-16 and 18-19 were previously withdrawn so that claims 1-6, 8-16 and 18-19 are currently pending. No new matter has been introduced.

Claims 1-4 and 8-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,984,955 to Wisselink (Wisselink) in view of U.S. Patent Publication No. 2004/0220682 to Levine et al. (Levine). This rejection is respectfully traversed.

The MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d,488,20 USPQ2d 1438 (Fed.Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

Section 2143.03 of the MPEP clarifies certain criteria in section 706.02(j).

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested

by the prior art. In *re Royka*, 490F.2d 981, 180 USPQ 580 (CCPA 1074). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In *re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In *re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)."

Wisselink discloses a system and method for grafting a main vessel as well as a branch vessel. The system comprises a primary graft placed in a main vessel. The primary graft is secured in place by anchoring devices on each end (stents). The primary graft comprises an opening through which a branch graft is connected. A branch connection apparatus secures the branch graft to the opening in the primary graft. The branch graft may also comprise an anchoring device at an end opposite of the branch connector apparatus. As the Examiner correctly asserts, the anchoring device may be wholly inside or wholly outside.

Levine discloses anti-obesity devices. In one embodiment, a two-piece sleeve system comprises a stomach sleeve 312 and a connector assembly 314 that is coupled to an anchor or stent 320. The stent 320 is configured for anchoring and even has barbs.

As set forth above, the prior art references must teach or suggest all the claim limitations. It is respectfully submitted that the prior art references, whether taken alone or in combination, fail to teach or disclose all of the claimed limitations. Specifically, neither reference discloses or suggests an internal anchor exerting a chronic outwardly directed force and an external anchor exerting a chronic inwardly directed force. Levine discloses an external stent that exerts an outwardly directed force. The stent has barbs for anchoring and that is why it is an external stent. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicant would be grateful for the opportunity to conduct a telephonic or in-person interview if the Examiner believes it would be helpful in disposing of the present case.

A favorable action on the merits is earnestly solicited.

Respectfully submitted,

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Dated: February 10, 2009